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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 408. 112

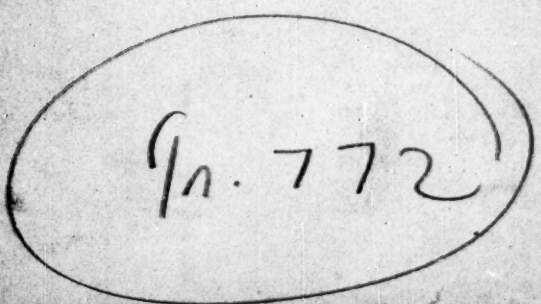
THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

ALFRED BRIGGS, WILLIAM C. KIBBE, THOMAS HANSBROW, CHRISTOPHER GREEN, BARNEY CLARK, ET AL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

FILED SEPTEMBER 24, 1887.



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United States circuit court, ninth circuit, district of California.

THE UNITED STATES OF AMERICA
vs.
ALFRED BRIGGS, WILLIAM C. KIBBE, THOMAS Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bithell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant.

Complaint.

The United States of America, the plaintiff above named, by its attorney, S. G. Hilborn, complains against Alfred Briggs, William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bithell, Anthony Lamont, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford,
2 William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, the defendants herein, and for cause of action alleges as follows:

That heretofore, to wit, before the accruing of the cause of action herein, Alfred Briggs, one of the above named defendants, was duly appointed and commissioned collector of taxes for the fourth collection district of California, under an act of Congress, entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July first, 1862, and afterwards duly entered in and upon the duties of collector aforesaid;

That as a condition precedent to entering upon the duties of the office of collector aforesaid, the said plaintiff, as by law provided, did demand of said defendant Alfred Briggs that he should execute and deliver to said plaintiff his certain bond or writing obligatory, in the sum of one hundred thousand ($100,000.00) dollars, with sureties to be approved according to law;

3 That in consideration of the premises herein recited and other good and sufficient considerations, the said defendant, hereinbefore mentioned, and all of them heretofore, to wit, on the eleventh day of May, in the year of our Lord one thousand eight hundred and sixty-four, did make, execute, and deliver to this plaintiff their joint and several bond or writing obligatory, duly signed by them and sealed with their seals, wherein they and each of them acknowledged themselves, jointly and severally, their joint and several heirs, executors, and administrators, to be held and firmly bound unto the United States of America in the full sum of one hundred thousand ($100,000) dollars, money of the United States, to which payment well and truly to be made they did then and there bind themselves, jointly and severally, their joint and several heirs, executors, and administrators, as will more fully appear by reference to a copy of

said bond, hereto attached, marked Exhibit "A," and made part of this declaration;

4 That said bond or writing obligatory was subject to and contained written thereon certaon conditions, in substance and effect as follows, that is to say: "That whereas the President of the United States hath, pursuant to law, appointed Alfred Briggs collector of taxes, under an act entitled 'An act to provide internal revenue to support the Government and to pay interest on the public debt;' now, therefore, if the said Alfred Briggs has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully

5 to execute and discharge, all the duties of such deputy collector according to law, then the above obligation to be void and of no effect, otherwise it shall abide and remain in full force and virtue."

And the said plaintiff alleges that the said Alfred Briggs was collector of internal revenue for the fourth collection district of California from the said eleventh day of May, A. D. one thousand eight hundred and sixty-four, until the nineteenth day of May, A. D. one thousand eight hundred and seventy-three, both days inclusive;

That the said office was and is the office referred to in said bond or writing obligatory, and for which the same was given as hereinbefore recited.

And the said plaintiff further alleges, that it was by law the duty of the said Alfred Briggs, as collector as aforesaid, to receive into his possession and custody sundry large sums of money belonging to the United

6 States, which said sums of money and all thereof it was and is the duty of the said Alfred Briggs, under the laws of the United States, to faithfully pay over and account for to the said United States.

And the said plaintiff alleges, that of the said large sums of money belonging to the said United States, and so received by the said Alfred Briggs in his official capacity as aforesaid, he did fail and neglect, and has continued to fail and neglect, to account for and pay over to said plaintiff the sum of twenty thousand eight hundred and fifty-two dollars and forty-five cents, but has converted the same to his own use.

And the said plaintiff alleges a breach of the condition of the said bond or writing obligatory, in this, that the said Alfred Briggs, on divers days and times within the period aforesaid, in his official capacity as collector as aforesaid, had not and has not truly and faithfully executed and

7 discharged, and did not continue to truly and faithfully execute and discharge, all the duties of said office, but the same did willfully neglect and fail to execute and perform as is hereinbefore set forth;

That the official accounts of said Alfred Briggs as collector of internal revenue for the fourth collection district of California, under his said bond, have been heretofore, on the twenty-third day of September, A. D. one thousand eight hundred and eighty-two, adjusted at the Treasury Department of the United States, in conformity with law and the rules and regulations of the said Treasury Department, made in pursuance of law;

Whereby the said sum or balance of twenty thousand eight hundred and fifty-two dollars and forty-five cents has been and is ascertained and reported to be due to the United States, plaintiff aforesaid, from said Alfred Briggs on account of said money so received by him in his official
8 capacity and not accounted for as hereinbefore set forth;

By means of which said breach of said bond or writing obligatory an action hath accrued to the said plaintiff to have and demand of and from the said defendants, jointly and severally, the said sum of twenty thousand eight hundred and fifty-two dollars and forty-five cents, which said amount said defendants jointly and severally have promised to pay to plaintiff;

And the said plaintiff further alleges that the said defendants, although heretofore duly requested to pay the said sum of twenty thousand eight hundred and fifty-two dollars and forty-five cents, have severally neglected and refused and still continue to neglect and refuse to pay the same or any part thereof;

Wherefore plaintiff brings this suit and prays judgment against said defendants for said sum of twenty thousand eight hundred and fifty-
9 two dollars and forty-five cents, with lawful interest thereon from the twenty-third day of September, A. D. one thousand eight hundred and eighty-two, and costs of suit.

S. G. HILBORN,
United States Attorney.

10 EXHIBIT "A."

C. T. N.—Office of the Register of the Treasury. Form 1.

[Transcript certificate.]

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., January 23d, 1883.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a true copy of the original official bond of Alfred Briggs, late collector of internal revenue for the fourth district of California, on file in the Treasury Department.

B. K. BRUCE,
(S. A. J.) *Register.*

Be it remembered that B. K. Bruce, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

11 In testimony whereof, I, Chas. J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this 23d day of January, in the year of our Lord 1883.

[SEAL.] CHAS. J. FOLGER,
Secretary of the Treasury.

Know all men by these presents, that we, Alfred Briggs, of the County of El Dorado and State of California, as principal, and William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Stro-

bridge, Alexander J. Elder, James Bithell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, and John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, Andrew J. Bryant, as sureties, are held and firmly bound unto the United States of America in the full and
12 just sum of one hundred thousand dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this eleventh day of May, in the year one thousand eight hundred and sixty-four.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said Alfred Briggs collector of taxes under an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt:" Now, therefore, if the said Alfred Briggs has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the
13 United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect, otherwise it shall abide and remain in full force and virtue.

[50-ct. stamp. A. B.]

Sealed and delivered in the presence of—

Robert Henderson, as to Alfred Briggs; Osgood C. Wheeler, as to Alfred Briggs; Osgood C. Wheeler, as to Wm. C. Kibbe; A. A. De Long, as to Wm. C. Kibbe; Osgood C. Wheeler, as to Thomas Hansbrow; Samuel Cross, as to Thomas Hansbrow; Samuel Cross, as to Christopher Green; Osgood C. Wheeler, as to Christopher Green; Samuel Cross, as to Barney Clark; Osgood C. Wheeler, as to Barney Clark; Osgood C. Wheeler, as to Jno. P. Castner; Robert Henderson, as to Jno. P. Castner; Robert Henderson, as to Patrick Bannon: Osgood C. Wheeler,
14 as to Patrick Bannon; Samuel Cross, as to Wm. B. Hunt; Osgood C. Wheeler, as to Wm. B. Hunt; Samuel Cross, as to Sylvester Tryon; Thomas E. Morgan, as to Sylvester Tryon; Samuel Cross, as to Tullius W. Strobridge; Edw'd C. Chamberlin, as to Tullius W. Strobridge; Samuel Cross, as to Alexander J. Elder.

ALFRED BRIGGS.	[SEAL.]	ALEXANDER J. ELDER.	[SEAL.]
WM. C. KIBBE.	[SEAL.]	JAMES BITHELL.	[SEAL.]
THOMAS HANSBROW.	[SEAL.]	ANTHONY LAMOTH, Jr.	[SEAL.]
CHRISTOPHER GREEN.	[SEAL.]	SAMUEL D. SMITH.	[SEAL.]
BARNEY CLARK.	[SEAL.]	BENJAMIN CAHOON.	[SEAL.]
JOHN P. CASTNER.	[SEAL.]	JOHN W. REEVES.	[SEAL.]
PARTICK BANNON.	[SEAL.]	LELAND STANFORD.	[SEAL.]
WILLIAM B. HUNT.	[SEAL.]	WILLIAM B. CARR.	[SEAL.]
SYLVESTER TRYON.	[SEAL.]	JOSEPH P. DYER.	[SEAL.]
TULLIUS W. STROBRIDGE.	[SEAL.]	ANDREW J. BRYANT.	[SEAL.]

William J. Shannon, as to Alexander J. Elder; Warren L. Everett, as to James Bithell; Samuel Cross, as to James Bithell; Geo. C. Gorham, as to Anthony Lamott, jr.; Samuel Cross, as to Anthony Lamott, jr.; Osgood C. Wheeler, as to Samuel D. Smith; Samuel Cross, as to Samuel D. Smith; Geo. C. Gorham, as to Benjamin Cahoon; Osgood C. Wheeler, as to Benjamin Cahoon; Osgood C. Wheeler, as to Jno. W. Reeves; Samuel Cross, as to Jno. W. Reeves; Benjamin B. Redding, as to Leland Stanford; Chas. Westmoreland, as to Leland Stanford; Charles M. Haley, as to William B. Carr; Chas. Westmoreland, as to William B. Carr; L. B. Adsit, witness for J. P. Dyer.

Chas. Westmoreland witness for J. P. Dyer, Charles M. Haley, Charles Westmoreland.

I, Alfred Briggs, having been appointed to the office of collector
15 of internal revenue for the fourth collection district of the State of California, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government authority, power, or constitution, within the United States, hostile or inimical thereto.

And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegi-
ance to the same; that I take this obligation freely, without any
16 mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office in which I am about to enter: So help me, God.

ALFRED BRIGGS.

[5-cent stamp. S. C. May 11, 1864.]

Sworn and subscribed this eleventh day of May, 1864, before me. Witness my hand and seal.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]

STATE OF CALIFORNIA,
City and County of Sacramento, ss:

I, A. C. Bidwell, county clerk in and for said city and county, do hereby certify that Samuel Cross, the person subscribing the annexed affidavit and oath of office made by Alfred Briggs, was, at the date thereof, a notary public in and for said city and county, duly commissioned and qualified, and authorized by law to take acknowledgments, affidavits, and administer oaths for general purposes, etc.; that all his official acts are entitled to full faith and credit, and that I am well acquainted with the
handwriting of the said notary public, and verily believe that the
17 name Samuel Cross subscribed to said affidavit and oath of office is his proper and genuine signature.

In testimony whereof I have hereunto set my hand and the seal of the county court of said city and county, at office in the city of Sacramento, this 12th day of May, 1864.

A. C. BIDWELL,
County Clerk, City and County of Sacramento.

[Seal of the court.]
[5-cent stamp. May 11, 1864. A. C. B.]

STATE OF CALIFORNIA,
City and County of Sacramento, ss:

I, A. C. Bidwell, county clerk in and for said city and county, do hereby certify that Samuel Cross, the person subscribing the annexed affidavit, was at the date thereof a notary public in and for said city and county, duly commissioned and qualified, and authorized by law to take acknowledgments, affidavits, and administer oaths for general purposes, etc.; that all his official acts are entitled to full faith and credit, and
18 that I am well acquainted with the handwriting of the said notary public, and verily believe that the name Samuel Cross subscribed to said affidavits is his proper and genuine signature.

In testimony whereof I have hereunto set my hand and the seal of the county court of said city and county, at office in the city of Sacramento, this 12th day of May, 1864.

A. C. BIDWELL,
County Clerk, City and County of Sacramento.

[Seal of the court.]
[5-cent stamp. May 12, 1864. A. C. B.]

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, Wm. Loewy, county clerk of the city and county of San Francisco, and clerk of the county court of said county (which is a court of record), do hereby certify that Charles Westmoreland, whose name is subscribed to the annexed affidavits, was at the date of the same and is now a notary public in and for said city and county, duly appointed and qualified and authorized by law to take such affidavits, and full faith and credit
19 are due to all his official acts as such.

And I do further certify that the signatures attached to the annexed affidavits are genuine.

In witness whereof I have unto set my hand and affixed the seal of the said county court at my office in the city and county of San Francisco, this 13th day of May, A. D. 1864.

WM. LOEWY,
County Clerk & Clerk of the County Court of the City and County of San Francisco.

[Seal of the court.]
[5 cent stamp. May 13, 1864. W. L.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

James Bithell, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid,

and that he is worth the sum of five thousand dollars after paying his just debts.

JAMES BITHELL.

Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notaria' seal.]
[5-cent stamp. May 12, 1864. S. C.]

20 STATE OF CALIFORNIA,
County of Sacramento, ss:

Anthony Lamott, jr., one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

ANTHONY LAMOTT, JR.

Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-ct. stamp. May 12, 1864. S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Samuel D. Smith, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

SAMUEL D. SMITH.

Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-cent stamp. May 12, 1864. S. C.]

21 STATE OF CALIFORNIA,
County of Sacramento, ss:

Benjamin Cahoon, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of ten thousand dollars after paying his just debts.

BENJAMIN CAHOON.

Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-cent stamp. May 12, 1864. S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

John W. Reeves, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid,

and that he is worth the sum of two thousand five hundred dollars after paying his just debts.

JOHN W. REEVES.

22 Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-cent stamp. May 12, 1864. S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

John W. Reeves, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of two thousand five hundred dollars after paying his just debts.

JOHN W. REEVES.

Subscribed and sworn to before me on this twelfth day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-cent stamp. May 12, 1864. S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

William C. Kibbe, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of three thousand dollars after
23 paying his just debts.

WM. C. KIBBE.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.

[Notarial seal.]
[5-cent stamp. May 11, 1864. S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Thomas Hansbrow, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of three thousand dollars after paying his just debts.

THOMAS HANSBROW.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Christopher Green, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

CHRISTOPHER GREEN.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Barney Clark, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth five thousand five hundred dollars after paying his just debts.

BARNEY CLARK.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

John P. Castner, one of the sureties to the foregoing bond, being duly sworn, on oath says he is a resident of the county and State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

JOHN P. CASTNER.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Patrick Bannon, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of two thousand five hundred dollars after paying his just debts.

PATRICK BANNON.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

William B. Hunt, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid and that he is worth the sum of fifteen thousand dollars after paying his just debts.

WILLIAM B. HUNT.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Sylvester Tryon, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State
27 aforesaid and that he is worth the sum of five thousand dollars after paying his just debts.

SYLVESTER TRYON.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

Tullius W. Strobridge, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of two thousand five hundred dollars after paying his just debts.

TULLIUS W. STROBRIDGE.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864.]

STATE OF CALIFORNIA,
County of Sacramento, ss:

28 Alexander J. Elder, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of seven thousand dollars after paying his just debts.

ALEXANDER J. ELDER.

Subscribed and sworn to before me on this eleventh day of May, 1864.

SAMUEL CROSS,
Notary Public, Sac. Co., Cal.
[Notarial seal.]
[5-cent stamp; May 11, 1864; S. C.]

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Personally came before me Leland Stanford, one of the sureties of the foregoing bond, being duly sworn, on oath says that he is a resident of

the county and State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

LELAND STANFORD.

Subscribed and sworn to before me on this thirteenth day of May, 1864.

[5-cent stamp; C. W.; 13 May, '64.]

29 Witness my hand and seal of office.

[Notarial seal.]

CHARLES WESTMORELAND,
Notary Public, City & County of San Francisco, Cal.

STATE OF CALIFORNIA,
City & County of San Francisco, ss:

Personally came before me William B. Carr, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of four thousand five hundred dollars after paying his just debts.

WILLIAM B. CARR.

Subscribed and sworn to before me on this thirteenth day of May, 1864.

CHARLES WESTMORELAND,
Notary Public City & County of San Francisco, Cal.

[5-cent stamp. C. W. 13 May, 1864.] [Notarial seal.]

STATE OF CALIFORNIA,
City & County of San Francisco, ss:

Before and by me, Joseph P. Dyer, one of the sureties to the
30 foregoing bond, being duly sworn, on oath says that he is a resident of the county & State aforesaid, and that he is worth the sum of five thousand dollars after paying his just debts.

JOSEPH P. DYER.

[Notarial seal.] [5-cent stamp. C. W. 13 May, 1864.]

Subscribed and sworn to before me on this thirteenth day of May, 1864.

CHAS. WESTMORELAND,
Notary Public City & County of San Francisco, Cal.

[5-cent stamp. C. W. 4 May, '64.

STATE OF CALIFORNIA,
City & County of San Francisco, ss:

Before and by me, a notary public, one of the sureties to the foregoing bond, being duly sworn, on oath says that he is a resident of the county and State aforesaid, and that he is worth the sum of four thousand five hundred dollars after paying his just debts.

ANDREW J. BRYANT.

Subscribed and sworn to before me on this fourteenth day of May, 1864.

[Notarial seal.]

Witness my hand and official seal of said date.

31 CHAS. WESTMORELAND,
Notary Public City & County of San Francisco, Cal.

(Endorsed.)

SAN FRANCISCO, *May 14th*, 1864.

I have made inquiry as to the sufficiency of the sureties on the within bond, and they are sufficent to pay the penalty thereof.

WM. H. SHARP,
U. S. Att'y, Northern Dist. of Cal'a.
ALFRED BRIGGS.

(Bond, $100,000.)

OFFICE OF INT. REVENUE,
14 *June*, 1864.

Respectfully referred to the First Comptroller for record.

E. A. ROLLINS,
Dep. Comm'r.

OFFICE OF INT. REVENUE,
13 *June*, 1864.

Respectfuly referred to the Solicitor of the Treasury for his approval.

E. A. ROLLINS,
Dep. Comm'r.

32 TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
June 13th, 1864.

I have examined the within bond and find it to be executed in proper form, and I approve the sureties thereto as sufficient.

EDWARD JORDAN,
Solicitor.

(Endorsed:) Filed July 23d, 1885. L. S. B. Sawyer, clerk.

33 In the United States circuit court, ninth circuit, district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
ALFRED BRIGGS, WILLIAM C. KIBBE, THOMAS Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Brannen, William B. Hunt, Silvester Tryon, Tullius W. Strowbridge, Alexander J. Elder, James Bethell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants.

Answer of Leland Stanford.

Now comes Leland Stanford, defendant herein, by Harvey S. Brown, his attorney, and for answer and defense to the complaint of plaintiff on file herein, alleged and shows to the court as follows:

I.

34 Defendant denies that the said Alfred Briggs, in his official capacity as collector of internal revenue or otherwise, failed or neglected, or has continued to fail or neglect, to account for or pay

over all moneys belonging to the United States; denies that he has failed or neglected, or has continued to fail or neglect, to pay over the sum of twenty-eight thousand eight hundred and fifty-two dollars and forty-five cents, or any other sum; and denies that he has converted the said sum, or any sum whatever, to his own use.

II.

Defendant denies that the said Alfred Briggs had not and has not truly and faithfully executed and discharged all the duties of the office of collector of internal revenue; and denies that he willfully or otherwise, or at all, neglected or failed to execute or perform any or all of the duties of said office.

III.

Defendant denies that either by the official accounts of the said Alfred Briggs heretofore adjusted as alleged in said complaint or otherwise, has it been or is ascertained or reported that the said sum of $28,852.45,
35 or any other sum, is due to the plaintiff from said Alfred Briggs on account of moneys received by him in his official capacity or otherwise. But defendant avers the fact to be that upon an adjustment of the official accounts of the said Alfred Briggs at the Treasury Department in conformity with law and the regulations of the said Treasury Department, it was ascertained and determined that the said account balanced, and that said Alfred Briggs was not indebted to the United States in any sum or sums of money whatever.

IV.

Defendant denies that there is now due or owing to said plaintiff by the defendant herein, or by either, or any of them, the sum of $28,852.45, or any sum or sums whatever, either through or by virtue of the matters and things in said complaint alleged and set forth, or otherwise, and defendant denies each and every and all and singular the allegations in said complaint contained.

36 Wherefore defendant prays to be hence dismissed with judgment for his costs herein.

HARVEY S. BROWN,
Attorney for Defendant, Leland Stanford.

(Endorsed:) Service of copy of within answer is hereby admitted this 10th day of August, A. D. 1885. S. G. Hilborn, attorney for plaintiff. Filed August 10, 1885. L. S. B. Sawyer, clerk.

37 *Marshal's return.*

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29 day of July, 1885, and personally served the same on the 30th day of July, 1885, by delivering to and leaving with Leland Stanford, said defendant named therein, personally, at the city, county, of San Francisco, in said district,

a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit c't, attached thereto.

M. M. DREW,
U. S. Marshal,
By B. J. AKERMAN,
Deputy.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29th day of July, 1885, and personally served the same on the 28th day of August, 1885, by delivering to and leaving with Joseph P. Dyer, on the 7th day of September, by delivering to and leaving with Andrew J. Bryant, said defendants named therein, personally, at the city & county of San
38 Francisco, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit court, attached thereto.

M. M. DREW,
U. S. Marshal,
By C. H. PETERSON,
Deputy.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29th day of July, 1885, and personally served the same on the 7th day of Sept., 1885, by delivering to and leaving with Anthony Lamott, jr., and Samuel D. Smith, said defendants named therein, personally, at the county of Alameda, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit c't, attached thereto.

M. M. DREW,
U. S. Marshal,
By C. H. PETERSON,
Deputy.

SAN FRANCISCO, *Sept.* 10, 1885.

39 UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29th day of July, 1885, and personally served the same on the 2d day of Sept., 1885, by delivering to and leaving with Tullius W. Strobridge, said defendant named therein, personally, at the county of Los Angeles, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit c't, attached thereto.

M. M. DREW,
U. S. Marshal,
By C. H. PETERSON,
Deputy.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29 day of July, 1885, and personally served the same on the 2d day of Sept., 1885, by delivering to and leaving with William B. Hunt, said defendant
40 named therein, personally, at the city & county of San Francisco, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit c't, attached thereto.

M. M. DREW,
U. S. Marshal,
By W. L. MCEWEN,
Deputy.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29th day of July, 1885, and personally served the same on the 6th day of August, 1885, by delivering to and leaving with William B. Carr, one of said defendant's named therein, personally, at the county of Kern, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit court, attached thereto.

M. M. DREW,
U. S. Marshal,
By A. T. COLTON,
Deputy.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

41 UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CALIFORNIA.

I hereby certify that I received the annexed writ on the 29 day of July, 1885, and personally served the same on the 29th day of August, 1885, by delivering to and leaving with Alfred Briggs, Christopher Green, Sylvester Tryon, & James Bithell, said defendants named therein, personally, at the county of Sacramento, in said district, a certified copy thereof, together with a copy of the bill of complaint, certified to by L. S. B. Sawyer, clerk U. S. circuit court, attached thereto. I further certify that after diligent search I have been unable to find John P. Castner, Patrick Bannon, and A. J. Elder. I am informed, and believe, that W. C. Kibbe, T. Hansbrow, Barney Clark, B. Cahoon, & J. W. Reeves, are deceased.

M. M. DREW,
U. S. Marshal.

SAN FRANCISCO, *Sept.* 10*th*, 1885.

42 United States of America. Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
ALFRED BRIGGS ET AL., DEFENDANTS.

Action brought in the said circuit court and the complaint filed in the office of the clerk of said circuit court in the city and county of San Francisco.

Summons.

The President of the United States of America, greeting:

To Alfred Briggs, William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bithell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants.

You are hereby required to appear in an action brought against you by the above-named plaintiff in the circuit court of the United States,
43 ninth circuit, in and for the district of California, and to file your plea, answer, or demurrer to the complaint filed therein (a certified copy of which accompanies this summons), in the office of the clerk of said court in the city and county of San Francisco, within ten days after the service on you of this summons if served in this county; or if served out of this county, then within thirty days, or judgment by default will be taken against you.

The said action is brought to recover from you, said defendants, the sum of twenty thousand eight hundred and fifty-two $\frac{45}{100}$ dollars, alleged to be due said plaintiff by reason of the breach of a certain bond, signed, sealed, and delivered by said defendants to said plaintiff, and conditioned for the faithful execution by said Alfred Briggs of the duties of collector of taxes for the fourth collection district of California, together with lawful interest on said sum of twenty thousand and eight hundred and fifty-two $\frac{45}{100}$ dollars from the twenty-third day of September, A. D.
44 1882, and also the costs of this action, all of which is more fully set out in the original complaint on file herein, to which reference is hereby made, and if you fail to appear and plea', answer, or demur, as herein required, your default will be entered, and the plaintiff will take judgment against you for said sum of twenty thousand eight hundred and fifty-two $\frac{45}{100}$ dollars, together with interest thereon as aforesaid, and also the costs of this action.

[SEAL.] Witness the honorable Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this 23d day of July, in the year of our Lord one thousand eight hundred and eighty-five, and of our Independence the 110th.

L. S. B. SAWYER,
Clerk.

(Endorsed:) Filed September 11th, 1885. L. S. B. Sawyer, clerk, by F. D. Mincton, deputy clerk.

45 In the United States circuit court, ninth circuit, district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
ALFRED BRIGGS, WILLIAM C. KIBBE, THOMAS Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bethell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants.

Answer of Green et al.

Now comes Christopher Green, Sylvester Tryon, Tullius W. Strobridge, James Bethell, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants herein, by their attorneys, Messrs. Latimer and Morrow, and for answer and defense to the complaint of plaintiff on file herein allege and show to the court as follows:

I.

46 Defendants deny that the said Alfred Briggs, in his official capacity as collector of internal revenue or otherwise, failed or neglected, or has continued to fail or neglect, to account for or pay over all moneys belonging to the United States; deny that he has failed or neglected, or has continued to fail or neglect, to pay over the sum of twenty thousand eight hundred and fifty-two dollars and forty-five cents; and deny that he has converted the said sum or any sum whatever to his own use.

II.

Defendants deny that the said Alfred Briggs had not, and has not truly and faithfully, executed and discharged all the duties of the office of collector of internal revenue; and deny that he willfully or otherwise, or at all, neglected or failed to execute or perform any or all of the duties of said office.

III.

Defendants deny that either by the official accounts of the said Alfred Briggs heretofore adjusted, as alleged in said complaint or other-
47 wise, has it been or is it ascertained or reported that the said sum of $20,852.45, or any sum, is due to the plaintiff from said Alfred Briggs on account of moneys received by him in his official capacity or otherwise. But defendants aver the fact to be, that upon an adjustment of the official accounts of the said Alfred Briggs at the Treasury Department, in conformity with law and the regulations of the said Treasury Department, it was ascertained and determined that said accounts balanced, and the said Alfred Briggs was not indebted to the United States in any sum or sums of money whatever.

IV.

Defendants deny that there is now due or owing to said plaintiff by the defendants herein, or by either or any of them, the sum of $20,852.45, or any sum or sums whatever, either through or by virtue of the matters and things in said complaint alleged and set forth or otherwise.

V.

And defendants deny each and every and all and singular the allegations in said complaint contained.

48 Wherefore defendants pray be hence dismissed with judgment for their costs herein.

LATIMER AND MORROW,
Attorneys for said Defendants.

Verification to answer.

UNITED STATES OF AMERICA,
District of California, ss:

Joseph P. Dyer, being first duly sworn, deposes and says that he is one of the defendants in the above-entitled action. That he has read the foregoing answer and knows the contents thereof, and that the same is true, of his own knowledge, except as to the matters and things which are therein stated on his information or belief, and as to those, that he believes it to be true.

J. P. DYER.

Subscribed and sworn to before me this 5th day of September, 1885.
[SEAL.] HOLLAND SMITH,
Notary Public.

(Endorsed:) Filed Sept. 15, 1885. L. S. B. Sawyer, clerk.

49 In the circuit court of the United States, ninth circuit, State of California.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
ALFRED BRIGGS, WILLIAM C. KIBBE, THOMAS Hansbrow, Christop'er Green, Barney Clark, John P. Castner, Patrick Bannow, William B. Hunt, Sylvester Tryon, Tullius W. Strawbridge, Alexander J. Elder, James Bethell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants.

Answer of Samuel D. Smith.

Now comes Samuel D. Smith, one of the defendants in the above-entitled cause, by his attorneys, Messrs. Clunie and Knight, and for answer and

defense to the complaint of plaintiff on file herein, alleges and shows to the court as follows:

Defendant denies that the said Alfred Briggs, in his official ca-
50 pacity as collector of internal revenue or otherwise, failed or neglected, or has continued to fail or neglect, to account for or pay over all moneys belonging to the United States; denies that he has failed or neglected, or has continued to fail or neglect, to pay over the sum of twenty thousand eight hundred and fifty-two dollars and forty-five cents, and denies that he has converted the said sum or any sum whatever to his own use.

Defendant denies that the said Alfred Briggs had not and has not truly and faithfully executed and discharged all the duties of the office of collector of internal revenue; and denies that he willfully or otherwise, or at all, neglected or failed to execute or perform any or all of the duties of said office.

Defendant denies that either by the official accounts of the said Alfred Briggs, heretofore adjusted as alleged in said complaint or otherwise, has it been, or is it ascertained or reported, that the said sum of $28,852\frac{45}{100}$ or any sum is due to the plaintiff from said Alfred Briggs on ac-
51 count of moneys received by him in his official capacity or otherwise. But defendant avers the fact to be that upon an adjustment of the official accounts of the said Alfred Briggs at the Treasury Department, in conformity with law and the regulations of the said Treasury Department, *in conformity with law and the regulations of the said Treasury Department*, it was ascertained and determined that said accounts balanced, and that the said Alfred Briggs was not indebted to the United States in any sum or sums of money whatever.

Defendant denies that there is now due or owing to said plaintiff by defendants herein, or any or either of them, the sum of $28,852\frac{45}{100}$, or any sum or sums whatever, either through or by virtue of the matters and things in said complaint alleged and set forth or otherwise.

Defendant further denies each and every, all and singular, the allegations in said complaint contained.

Wherefore defendant prays to be hence dismissed, with his costs, in that behalf sustained.

CLUNIE AND KNIGHT,
Attorneys for Defendant, Samuel D. Smith.

52 *Verification to answer.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Samuel D. Smith, being duly sworn, deposes and says: I am one of the defendants in the above-entitled cause. I have heard read the foregoing answer, and know the contents thereof, and the same is true, of my own knowledge, except those matters therein stated upon information or belief, and as to those matters I believe it to be true.

S. D. SMITH.

Subscribed and sworn to before me this 16th day of October, A. D. 1885.

[SEAL.] W. B. MCCLELLAN,
Notary Public.

Service of the foregoing answer, by copy, admitted this 16th day of October, A. D. 1885.

S. G. HILBORN,
United States Attorney.

(Endorsed:) Filed October 16th, 1885. L. S. B. Sawyer, clerk.

53 *Verdict.*

U. S. circuit court, dist. Cal.

UNITED STATES OF AMERICA
vs.
ALFRED BRIGGS ET AL.

We, the jury, find in favor of the defendants.

CHARLES HOLBROOK,
Foreman.

(Endorsed:) Filed Oct'r 28, 1885. L. S. B. Sawyer, clerk.

54 United States of America. Circuit court of the United States, ninth judicial circuit, district of California.

UNITED STATES OF AMERICA
vs.
ALFRED BRIGGS ET AL. } No. 3794.

Judgment.

This cause having come on regularly for trial on the 28th day of October, 1885, being a day in the July, 1885, term of said court, before the court and a jury of twelve men duly impanneled, Henry C. Dibble, esq., ass't U. S. attorney, appearing on behalf of the plaintiff, the United States, and W. W. Morrow, esq., on behalf of the defendants, and documentary evidence having been offered, and a witness on the part of the United States having been sworn and examined, and the evidence being closed, the cause, after arguments of counsel and the instructions of the court, having been submitted to the jury, and the jury having rendered the following verdict:

"We, the jury, find in favor of the defendants." And the court
55 having thereupon ordered that judgment be entered herein in accordance with said verdict:

Now, therefore, by virtue of the law and by reason of the premises aforesaid, it is considered by the court that the United States, plaintiff, take nothing by this action, and that the said defendants go thereof without day.

Judgment entered October 28, 1885.

L. S. B. SAWYER, *Clerk.*

I hereby certify that the foregoing is a full, true, and correct copy of an original judgment entered in the above-entitled cause.

Attest my hand and the seal of said circuit court this 28th day of October, A. D. 1885.

[SEAL.] L. S. B. SAWYER, *Clerk.*

(Endorsed:) Filed October 28, 1885. L. S. B. Sawyer, clerk.

56 United States of America. Circuit court of the United States, ninth circuit, district of California.

UNITED STATES OF AMERICA
vs.
ALFRED BRIGGS & AL. } No. 3794.

Clerk's certificate.

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit, within and for the district of California, do hereby certify that the foregoing papers, hereto annexed, constitute the judgment roll in the therein-entitled action.

Witness my hand and the seal of said circuit court this 28th day of October, A. D. 1885.

[SEAL.]

L. S. B. SAWYER, *Clerk*,
By F. D. MONCTON,
Deputy Clerk.

(Endorsed:) Judgment roll. Filed October 28, 1885. L. S. B. Sawyer, clerk; by F. D. Moncton, deputy clerk.

57 In the circuit court of the United States in and for the ninth circuit, district of California.

UNITED STATES
vs.
ALFRED BRIGGS & AL.

Bill of Exceptions.

Be it remembered that this case came on regularly for trial at a stated term of said court, on the 28th day of October, 1885, before a jury duly sworn and empanneled to try said cause, honorable Lorenzo Sawyer, circuit judge, presiding; Henry C. Dibble, esq., assistant U. S. attorney, appearing on behalf of plaintiff, the United States, and W. W. Morrow, esq'e, on behalf of the defendants.

Whereupon the following proceedings were had:

After stating the case to the jury, pl'ff's attorney offered in evidence, under provisions of section 886, Revised Statutes, the following document,

58 purporting to be an authenticated copy of the report of C. W. Eldridge, revenue agent, dated June 14th, 1882, wherein it is charged that a deficit in the accounts of Alfred Briggs, late internal revenue collector for the 4th district of California, had been discovered.

The said document is as follows:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., Feb'ry 1st, 1883.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a transcript from the books and proceedings of the Treasury Department, and true copies of copies of the originals, said copies

being on file in this office, except the copy of the letter of C. W. Eldridge, revenue agent, dated June 14th, 1882, which is a true copy of the original on file in this office.

(Signed:) B. K. BRUCE,
Register.

Be it remembered that B. K. Bruce, esq., who certified the an-
59 nexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Chas. J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this first day of February, in the year of our Lord 1883.

(Signed) CHAS. J. FOLGER, [SEAL.]
Secretary of the Treasury.

UNITED STATES INTERNAL REVENUE,
Washington, D. C., June 14th, 1882.

Hon. GREEN B. RAUM,
Commissioner Int. Rev.:

SIR: I have the honor to report that an examination of the accounts of the Central Pacific and California Pacific R. Roads has developed the fact that payments of tax to the total amount of $20,852.45 were made
60 to Alfred Briggs, late collector 4th district California, which payments a careful examination of the records of said office show were not accounted for to the United States, as follows:

Receipt dated August 29th, 1871, to Central Pacific R. R. for interest on bonds, $1,459,828,000; amount of tax received, $36,495.75; being an amount assessed on the July list, 1871. Assessment list for July, 1871, shows an assessment on Central Pacific R. R. Co. of $1,059,828 for interest on bonds, tax $26,495.75, paid August, 1871. The same amount of tax ($26,495.75) is entered upon the record of daily receipts August 29, 1871. This shows a discrepancy between the receipt and assessment list of $400,000 in the amount of interest assessed, and $10,000 in the tax received.

2. Receipt dated April 27, 1872, to Central Pacific R. R. Co., excise tax on interest on bond to Dec. 31, 1871, amount tax received $36,257.81, being amount assessed on monthly list for March, 1872; assessment
61 list for March, 1872, shows an assessment on Central Pacific R. R. Co. of $1,319,785 for interest on bond, tax $32,994.63, paid April, 1872. The record of daily receipts show the same amount entered as received, $32,994.63. This shows a discrepancy of $3,263.18.

3. Receipt dated April 27th, 1872, to California Pacific R. R. Co., excise tax on interest on bonds to Dec. 31, 1871, amount tax received, $7,589.27, being amount assessed on monthly list March, 1872. The assessment list for March, 4th district California, contains no assessment of this kind, neither does the record of daily receipts show any such payment.

The whole amount seems to have been "appropriated." The originals of the above-mentioned receipts were exhibited to me in San Francisco by

officers of the Central Pacific and California Pacific Railroads. They are all made on the regular blank (Form 1) furnished by the internal revenue office. All are signed by S. G. Wright, deputy collector (now
62 deceased). I have no doubt of their genuineness. Copies are enclosed herewith. I also made a personal inspection of the records of the collector's office, 4th district of California, with result as stated above.

I would recommend that a suit be begun on the bond of Alfred Briggs, late collector 4th district, for the sums not accounted for. If this is done, I would suggest that the U. S. attorney be instructed to call on the R. R. companies to produce, if practicable, the original checks or drafts by which payments were made, if such payments were made by check or draft, as is probable.

Very respectfully,

C. W. ELDRIDGE,
Revenue Agent.

(Copy.)

No. .] UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE 4TH DIST. OF CAL.,
August 29th, 1871.

Received of Cent. Pac. R. R. Co., thirty-six thousand four hundred ninety-five and $\frac{75}{100}$ dollars, for excise tax on interest on bond
63 $1,459,828, $36,495.75. Total $36,495.75 being amount assessed on monthly list for July, 1871.

$36,495.$\frac{75}{100}$.

S. G. WRIGHT,
Dep. Collector.

Per receipts amounts	$1,459,828	Tax	$36,495.75
July 71 list "	1,059,828	"	26,495.75
Deficiency	$400,000		$10,000.00

(No. Copy. 2.)

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, 4TH DISTRICT OF CAL.,
April 27, 1872.

Received of C. P. R. R. Co. thirty-six thousand two hundred fifty-seven and $\frac{81}{100}$ dollars for excise tax on interest on bonds to Dec. 31, 1871.

$36,257.81
Total, 36,257.81

Being amount assessed on monthly list for March, 1872.

L. G. WRIGHT,
Dep. Collector.

$36,257.81.

Per receipts amount tax		$36,257.81
Mar. 72 list "	$1,059,828	32,994.63
Deficiency		3,263.18

64 (Copy. (1.) 3.)

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, 4TH DIST. OF CALIFORNIA,
April 27, 1872.

Received of Cal. P. R. Co. seven thousand five hundred eighty-nine and $\frac{27}{100}$ dollars for excise tax on interest on bonds to Dec. 31, 1871.

$7,589.27
$———
$———

Total, 7,589.27

Being amount assessed on monthly list for March, 1872.
$7,589.27.
(Signed) L. G. WRIGHT,
Dep. Collector.

Not assessed on list from May, 71, to Dec., 72.

Counsel for defendants objected to the admission of this document upon the ground that it was irrelevant, immaterial, and incompetent; that it was a mere hearsay report of an officer not in charge of the books and
65 accounts of the Treasury Department, made up, in essential parts, not from the books or from information derived from Collector Briggs, or from books or records or papers of his office, or from any official sources, but made up from statements made by private parties outside the office, who claimed to have paid taxes, and not made in the presence of Briggs, or with his knowledge or consent, and to which statements Briggs was not a party, and that it was not such a transcript from the books and proceedings of the Treasury Department as is made admissible in evidence by section 886 of the Revised Statutes of the United States.

After argument of counsel, this objection was sustained by the court, to which ruling the plaintiff's counsel excepted.

Thereupon counsel for plaintiff offered in evidence, under the provisions of section 886, R. S., the following document, purporting to be a supplemental statement from the books and proceedings of the
66 Treasury Department of the accounts of said Alfred Briggs, late internal-revenue collector of the 4th district of California, dated Sept. 23rd, 1882, the accounts of said officer having been before settled by the Department; which said supplemental statement, purporting to show a deficit in the accounts of said Alfred Briggs to the amount of $20,852.45, it was admitted was compiled from and was based upon the aforesaid report of the said C. W. Eldridge, revenue agent. The document offered is as follows:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., Aug. 4th, 1885.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. S. Rosecrans, Register of the Treasury Department, do hereby certify that the annexed is a transcript from the books and proceedings of

the Treasury Department, and true copy of the original on file in the case of Alfred Briggs, late collector of internal revenue for the fourth
67 district of California.

(Signed) W. S. ROSECRANS,
Register.

Be it remembered that W. S. Rosecrans, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, D. Manning, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this day of August, in the year of our Lord, 1885.

[SEAL.] (Signed) D. MANNING,
Secretary of the Treasury.

(No. 14849. Supplemental, for suit.)

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
September 19, 1882.

I hereby certify that I have examined and adjusted an account
68 between the United States and Alfred Briggs, late collector for the 4th district of California, to May 19, 1873, and find him chargeable as follows:

(Under bond dated May 11, 1864, and approved June 13, 1864.)

1. To balance from last adjustment report, No. 8457.
10-2. To amount of taxes collected and not accounted for, as per report of revenue agent, C. W. Eldridge, dated June 14, 1882 (copies of receipt herewith, viz):

Aug. 29, 1871	$10,000.00	
April 27, 1872	3,263.18	
" " "	7,589.27	
		$20,852.45
25. By balance due to the United States		$20,852.45

As appears from accounts & vouchers herewith transmitted for the decision of the Comptroller therein.

(Signed) D. S. ALEXANDER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$20,852.45.] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Sept. 23, 1882.

I admit and certify that a balance of twenty thousand eight hun-
69 dred fifty-two & $\frac{45}{100}$ dollars is due to the United States as stated in the above report.

(Signed) WM. LAWRENCE,
First Comptroller.

To the REGISTER OF THE TREASURY.

Statement of differences. Balance, per account due to (no account rendered).

FIFTH AUDITOR'S OFFICE,
Sept. 19th, 1882.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
Sept. 23, 1882.

Examined and reported by S. S. Clarke.

Counsel for defendants objected to the admission of this document, on the ground that it was incompetent, immaterial, and irrelevant; that it was compiled from, and was based upon, and had no other foundation than, the aforesaid report of the said C. W. Eldridge, revenue agent, and is subject to the same objections made to said report, and that it was not such a transcript from the books and proceedings of the Treasury
70 Department as is made admissible by section 886 of the Revised Statutes of the United States. After argument by counsel this objection was sustained by the court, to which ruling the plaintiff's counsel excepted.

Thereupon Alfred Briggs, a witness called for plaintiff, was sworn, and testified that he was collector of internal revenue for the 4th district of California in 1871–2, and he thought that L. J. Wright was one of his deputies at that time; that Wright is dead. Some papers dated in 1871–2 obtained from private parties, purporting to be receipts for the amount of moneys sued for in this case, and purporting to be signed by Wright as deputy collector, were placed in the hands of the witness, and he was asked if those receipts are signed by Wright, and he answered, after examination, "I do not recognize these as Wright's handwriting."

This was all the evidence introduced or offered. And thereupon,
71 after argument by counsel, the jury, being instructed by the court, returned a verdict in favor of the defendants. Whereupon the foregoing bill of exceptions was duly prepared, settled, and allowed.

In testimony whereof, and in conformity to the agreement of counsel, I have hereunto set my hand and seal this 1 day of November, 1886.

(Signed) LORENZO SAWYER,
Circuit Judge.

I consent and stipulate that the above and foregoing bill of exceptions be settled, allowed, and filed nunc pro tunc.

WM. W. MORROW,
Attorney for Defendants.

(Endorsed:) Filed November 1, 1886. L. S. B. Sawyer, clerk.

72 United States circuit court, ninth circuit, district of California.

On appeal to the Supreme Court of the United States. Assignments of error.

UNITED STATES
vs.
ALFRED BRIGGS, WILLIAM C. KIBBE, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Costner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strowbridge, Alexander J. Elder, James Bithell, Anthony Lamatte, jr., Samuel D. Smith, Benjamine Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, & Andrew J. Bryant.

Assignment of errors.

Plaintiff makes the following assignments of error:

First. There was error in the ruling of the court refusing to
73 admit in evidence on the trial of this case the authenticated copy of the report of C. W. Eldridge, revenue agent, dated June 14, 1882, wherein and wherefrom it appears that a deficite in the accounts of Alfred Briggs, late internal-revenue collector for the fourth district of California, had been discovered, which said authenticated copy of said report of said C. W. Eldridge is fully set forth in the bill of exceptions tendered and settled in this case.

Second. There was error in the ruling of the court refusing to admit in evidence on the trial of this case the supplemental statement from the books and proceedings of the Treasury Department of the accounts of Alfred Briggs, late internal-revenue collector for the fourth district of California, dated September 23, 1882, which said supplemental statement
74 purported to show a deficit in the accounts of said Alfred Briggs of twenty thousand eight hundred and fifty-two dollars and forty-five cents, and which said supplemental statement is fully set forth in the bill of exceptions tendered and settled in this case.

Third. There was error in the verdict of the jury in favor of the defendants.

HENRY C. DIBBLE,
Assistant United States Attorney.

(Endorsed:) Received copy of within assignment of error. San Francisco, Aug. 31st, 1887. Wm. W. Morrow, attorney for defendants. Filed Sept. 1st, 1887. L. S. B. Sawyer, clerk.

75 In the circuit court of the United States of the ninth judicial circuit, in and for the northern district of California.

THE UNITED STATES OF AMERICA
vs.
ALFRED BRIGGS ET AL. } No. 3794.

I, L. S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit, in and for the northern district of California,

do hereby certify that the foregoing seventy-four written pages, numbered from 1 to 74, inclusive, are a full, true, and correct copy of the record and of all proceedings in the above and therein entitled cause, and that the same together constitute the return to the annexed writ of error.

Witness my hand and the seal of said circuit court this 2d day of September, A. D. 1887.

[SEAL.] L. S. B. SAWYER,
Clerk.

76 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States of America of the ninth judicial circuit, in and for the northern district of California, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said circuit court before you, between the United States of America, plaintiff in error, and Alfred Briggs, William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bithell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, defendants in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington, in the District of Columbia, on the second Monday of October next, in the said Supreme Court, to be there and then held, that the record and proceedings aforesaid be inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this 29th day of November, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

L. S. B. SAWYER,
Clerk of the Circuit Court of the United States for the Northern District of California.

The above writ of error is hereby allowed.

LORENZO SAWYER,
United States Circuit Judge, 9th Judicial Circuit.

77 The answer of the judges of the circuit court of the United States for the northern district of California.

The record and all proceedings of the plaint whereof mention is within made, with all things touching the same, we hereby certify under the seal

of said court to the Supreme Court of the United States within mentioned, at the day and place within contained, in a certain schedule to this writ annexed as within we are commanded.

By the court.

[SEAL.] L. S. B. SAWYER,
Clerk.

(Indorsed:) No. 3794. United States Supreme Court. The United States of America, plaintiff in error, vs. Alfred Briggs et al., defendants in error. Writ of error. Filed Nov. 29, 1886. L. S. B. Sawyer, clerk.

78 UNITED STATES OF AMERICA, *ss:*

To Alfred Briggs, William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark, John P. Castner, Patrick Bannon, William B. Hunt, Sylvester Tryon, Tullius W. Strobridge, Alexander J. Elder, James Bithell, Anthony Lamott, jr., Samuel D. Smith, Benjamin Cahoon, John W. Reeves, Leland Stanford, William B. Carr, Joseph P. Dyer, and Andrew J. Bryant, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the second Monday of October, A. D. 1887, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, ninth judicial circuit, in and for the northern district of California, wherein the United States of America is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the honorable Lorenzo Sawyer, judge of the circuit court of the United States of America of the ninth judicial circuit, in and for the northern district of California, this 29th day of November, A. D. 1886, and of the Independence of the United States the one hundred and eleventh.

LORENZO SAWYER,
United States Circuit Judge, 9th Judicial Circuit.

79 (Indorsed:) No. 3794. In the Supreme Court of the United States. The United States of America, plaintiff in error, vs. Alfred Briggs et al., defendants in error. Citation. Filed November 29, 1886. L. S. B. Sawyer, clerk U. S. circuit court, 9th circuit, by F. D. Monckton, deputy clerk.

Received copy of the within citation this 29th day of November, 1886.

WM. W. MORROW,
Attorney for Defendants.

(Indorsement on cover:) No. 408. The United States, plaintiff in error, vs. Alfred Briggs, William C. Kibbe, Thomas Hansbrow, Christopher Green, Barney Clark et al. N. California C. C. U. S. Filed September 24, 1887.